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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,591	09/18/2006	Tejal Chauhan	852.0048.U1(US)	3422
29683	7590	09/30/2008	EXAMINER	
HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			DONADO, FRANK E	
			ART UNIT	PAPER NUMBER
			2617	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,591	<b>Applicant(s)</b> CHAUHAN ET AL.	
	<b>Examiner</b> FRANK DONADO	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/30/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the microphone referred to in claims 1 and 14 and the intersection referred to in claims 9 and 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. ***Although the microphone is shown in the drawing in Figure 6, it is not shown in the drawings of Figures 1, 3, 4 or 5, which show the actual casing. It is requested this feature, along with the intersection be properly labeled in at least one of these Figures.***

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9, 11 and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 9 and 11 recite the limitation "**the intersection**" in the face of the casing. There is insufficient antecedent basis for this limitation in the claim.

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6. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Sekine, et al (**US Patent 6,336, 037**). From now on, Sekine, et al, will be referred to as Sekine.

Regarding claim 16, Sekine teaches a casing for a handheld device providing a face for providing an input region having a defined viewing axis and having an audio axis, the casing providing for speaker and microphone outlets spaced along the audio axis, the audio axis being substantially misaligned with respect to the viewing axis, the audio and viewing axes intersecting on the face (**The speaker may be positioned at different points in the device, causing the audio axis to be aligned in the same manner as the device in this claim, where 14 in Figures 5 and 8 are the microphone and 13 is the speaker, Column 5, lines 14-17 and Column 6, lines 42-48**).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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12. Claim 1-3 and 7-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekine.

Regarding claims 1, Sekine teaches a casing for a handheld device providing a face for providing an input region having a defined viewing axis and having an audio axis, the casing providing for speaker **13** and microphone **14** outlets spaced along the audio axis, the audio axis being substantially aligned with a greatest span of the face **(Column 3, lines 35-38, 46-48 and 63-67, Column 4, lines 62-65, Column 6, lines 42-48)**, except for the earpiece is positioned such that the audio axis is substantially aligned with the shortest span of the face. It would have been an obvious matter of design choice to lengthen the span of the audio axis, or to shorten the other span, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claims 2-3 and 7-13, Sekine teaches a casing for a handheld device in accordance with claim 1. Sekine further teaches the greatest span is a diagonal across the face 7, the face has one elongate and one truncated diagonal, the greatest span of the face terminates at a point, the greatest span of the face terminates at a point at both extremities, the intersection occurs in the display region of the face, the display region is substantially in the centre of the face, the intersection occurs at the input region of the display, and the face is generally rectangular **(In fig. 8, component**

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**13 is the speaker, and the speaker may be positioned at different points 13a through 13e, such that the greatest span is a diagonal across the face and one diagonal is more elongated than the other truncated one, terminates at a point at both extremities, and has a display that is part of an input/output section 12 in Figure 5, where the device is rectangular-shaped, Column 5, lines 5-14 and Column 6, lines 42-48).**

Regarding claim 14, Sekine teaches a handheld telecommunications device according to claim 13. Sekine further teaches the viewing axis and audio axis are misaligned such that rotation of the audio axis in the face of the casing for alignment of the speaker and microphone outlets with the ear and mouth respectively of the user when moving from the viewing to the listening position is greater than that required for alignment of the viewing axis with the ear and mouth **(The speaker may be positioned at different points in the device, causing the audio axis to be aligned in the same manner as the device in this claim, where 14 in Figures 5 and 8 are the microphone, Column 5, lines 14-17 and Column 6, lines 42-48).**

Regarding claim 15, Sekine teaches a handheld telecommunications device according to claim 13. Sekine further teaches the device can be held in the hand in the proper orientation for viewing the display and lifted to the ear in proper orientation for audio communication whilst maintaining substantially the same alignment of the fingers relative to the direction of the lower arm of the user **(See Figure 9. Also, it is**



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**commonly known in the art for hand-held devices to allow for maintaining substantially the same alignment of the fingers relative to the direction of the lower arm of the user).**

13. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekine, in view of Kulberg, et al (**US Patent No. 5,850,612**). From now on, Kulberg, et al, will be referred to as Kulberg.

Regarding claims 4-6, Sekine teaches a casing for a handheld device in accordance with claim 3. Sekine does not teach the truncated diagonal runs terminates at a rounded corner, the truncated diagonal terminates at a rounded corner at both extremities, and the rounded corners provide two sweeping sides. Kulberg teaches the truncated diagonal run terminates at a rounded corner, the truncated diagonal terminates at a rounded corner at both extremities, and the rounded corners provide two sweeping sides (**Components 112 and 118 are the rounded corners in Figure 10, Column 11, lines 13-18 and 46-57**). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine, in view of Examiner's Official Notice, to include rounded corners for the benefit of ergonomics and aesthetics.

### ***Conclusion***

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14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**US Patent No 6937464** refers to an ergonomic hand held display.

**US Patent No. 6976916** refers to an ergonomic hand-held electronic device with keypad input and display screen.

**US PG Publication 2005/015195** refers to a radio communication device and printed board comprising at least one current-conducting correction element.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK DONADO whose telephone number is (571) 270-5361. The examiner can normally be reached on Monday-Thursday, 8 am-5 pm and at the same time on alternate Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6361.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-273-8300.

Frank Donado  
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